

REMARKS

Introductory Matters

Claims 1-10, 14, 16-17, 20, 22 and 27 are pending in this application. Claims 1-10, 14, 16-17, 20, 22 and 27 stand rejected.

Applicants have amended the definition of R⁸ in claims 1-8 to remove methyl (non-substituted C₁ alkyl)

These amendments add no new matter.

THE OFFICE ACTION

35 U.S.C. § 103 (Armistead *et al.*, WO/01/60816)

Claims 1-10, 14, 16-17, 20, 22 and 27 stand rejected under 35 U.S.C. § 103 as being obvious over Armistead *et al.*, WO/01/60816. The Examiner maintains his contention that compounds claimed in WO 01/60816 differ from the compounds in the instant claims by having a -H group at position 6 of the pyrimidine ring instead of *e.g.* a methyl, and thus are structural analogs. The Examiner cites MPEP § 2144.09 when asserting that: “A *prima facie* case of obviousness may be made when chemical compounds have very close structural similarities and similar utilities”

Applicants traverse. However, to expedite prosecution, Applicants have amended claims 1-8, by removing methyl from the definition of R⁸. Applicants respectfully submit that the amended claims are not *prima facie* obvious in light of Armistead *et al.*

35 U.S.C. § 103 (Dixon *et al.*, WO/03/026664)

The Examiner has raised a new ground for rejection of claims 1-10, 14, 16-17, 20, 22 and 27 under 35 U.S.C. § 103 as being un-patentable over Dixon *et al.*, WO/03/026664. The Examiner contends that the reference teaches a generic group of pyrimidine-2,4-diamine compounds, which embraces Applicants' instantly claimed compounds. The Examiner further

contends that the compounds according to the instant claims differ from the reference disclosed compounds by having a substituent at a different position on the pyrimidine ring from the reference compound (Example 69) and therefore the compounds are positional isomers. The Examiner cites several CCPA cases to assert that: “[A compound] structurally isomeric with a compound of prior art is *prima facie* obvious absent unexpected results”

Applicants traverse. However, to expedite prosecution, Applicants have amended claims 1-8, by removing methyl from the definition of R⁸. Applicants respectfully submit that the amended claims are not *prima facie* obvious in light of Dixon *et al.*

For all the above reasons, Applicants respectfully request that the Examiner withdraw these 103 rejections.

CONCLUSION

Applicants request that the Examiner enter the above amendments, consider the accompanying arguments, and allow the claims to pass to issue. Should the Examiner deem expedient a telephone discussion to further the prosecution of the above application, Applicants request that the Examiner contact the undersigned attorney at his convenience.

Respectfully submitted,

/H. Joon Chung/
H. Joon Chung (Reg. No. 52,748)
Marta Cavero-Tomas (Reg. No. 62,817)
Attorney for Applicants
Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4242
Tel.: (617)444-7923
Fax.: (617)444-6483
Customer Number: 27916